



**OFFICE OF THE DISTRICT ATTORNEY
EIGHTEENTH JUDICIAL DISTRICT**

MARC BENNETT
District Attorney

AARON BREITENBACH
Deputy District Attorney

February 9, 2024

**Testimony Regarding HB 2665
Submitted by Marc Bennett, District Attorney
Eighteenth Judicial District**

Honorable Chairman Owens and Members of the House Committee on Corrections and Juvenile Justice, thank you for the opportunity to offer my support for House Bill 2665, which seeks to increase the penalties for leaving the scene of a serious automobile wreck.

For background, K.S.A. 8-1602, used to set the range of penalty for leaving an injury wreck as follows: (1) a class A person misdemeanor for leaving a scene where a person was injured; (2) a severity level 10 for leaving a scene when another person suffered "great bodily harm,"; and (3) a severity level 9 for leaving a scene in which another person died. The low penalties created a perverse incentive to leave the scene for intoxicated or reckless drivers who would otherwise face potential severity level 5 involuntary manslaughter charge, severity level 4 for involuntary manslaughter while DUII, or a severity level 5 Aggravated (Reckless) Battery for causing great bodily harm.

K.S.A 8-1602 was later amended (in 2011, I believe) to increase the penalty for leaving the scene where a person died, making it a severity level 5 person felony rather than a severity level 9. That way, if someone leaves, they face a penalty equal to that of involuntary manslaughter.

The new bill, HB 2665 is the result of a case in which two lives were lost in a wreck in Wichita. The other driver left the scene and was charged with a single severity level 5 person felony, for what he did: he left the scene. But the penalty could not be enhanced as a result of the fact that two people died. HB 2665 seeks to change that with the following changes:

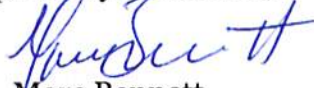
(5) The death of any person, if the ~~person~~ *driver* knew or reasonably should have known that such accident resulted in injury or death, ~~shall be a level 5~~ *is a severity level 4, person felony*, except as provided in subsection (b)(6).

(6) *The death of more than one person, if the driver knew or reasonably should have known that such accident resulted in injury or death, is a severity level 3, person felony.*

The language “knew or reasonably should have known” is important. This language does not attempt to hold people accountable for a result that was beyond their knowledge. But in a case such as the situation in Wichita where two victims were on a motorcycle and the other driver can see the number of victims, a higher penalty is appropriate.

Finally, HB 2665 also seeks to make the existing law (for a single death), a severity level 4 rather than a severity level 5, because involuntary manslaughter while DUI is a severity level 4. The argument in favor of this change is that the intoxicated driver who runs should not benefit from his or her flight (by only facing a level 5). If the statute is amended at §(5) to make the punishment a severity level 4, then it makes sense that two or more deaths should then be punished as a severity level 3 as set forth in the new §(6).

Respectfully submitted,



Marc Bennett

District Attorney

Eighteenth Judicial District